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**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

Hi,

As a citizen who values choice and the right of a person to make his/her intellectual property freely available, i.e. open-source software, I have a few comments on the proposed MS settlement.

I feel that Microsoft has subtly influenced parts of the settlement to eliminate any use of open-source software.

Specifically, Section III(J)(2) allows Microsoft to define criteria which will allow Microsoft to refuse sharing of API, communication protocols, documentation, etc. with any organization it deems is not a 'business'. This provision allows Microsoft to continue with their embrace, extend and eliminate any computing standards/protocols. As an example, look at how Microsoft behaved with MIT's kerberos authentication system. Microsoft was allowed to join the kerberos standards body on the promise they would share any extensions to the protocol. What happened? Microsoft extended the protocol in proprietary ways in Win2k and refused to release their extensions. This meant that computers running kerberos on non-MS operating systems could not interact with Microsoft systems. The goal, once an organization buys in to Microsoft's OS they would have to replace all non-Microsoft OS's to maintain functionality. Microsoft finally released a specification but under NDA.

Allowing Microsoft to define the criteria for "valid businesses" is the same as allowing defense attorneys to set the criteria for allowed evidence! This is what judges are for, to provide balance between prosecutor and defense. There is no balance with Microsoft allowed to define "valid businesses". If you even allow for an organization which has been defined by MS as not "valid" to file a complaint with the 3-member oversight tribunal, most organization will either give up or bow to MS because of the time required for the oversight committee to function.

Secondly, Section III(D)'s footnotes specifically lock out all organization but commercial! This shuts out all non-profits, governments, etc. We do not live in a plutocracy. The U.S. Bill of Rights exist for individual Americans not corporations. I don't propose being able to demand MS disclose its source code or a proprietary technology they truly invented from scratch. The internet was founded on open protocols which have allowed it to grow and become what it is today. By allowing a monopoly with over 90% of the PC operating system market to define who it will share information with allows the monopoly to block out all future competition. Until there is balance in the

operating system marketplace, meaning several strong competitors, Microsoft can only be trusted to hold on to their monopoly. It's not about money with Microsoft. It is nearly insane hyper-competitiveness. How can a person strive to launch a new business in the personal computer market when Microsoft wants to control all the protocols and information flow? I don't mind paying taxes to the government for infrastructure because if I don't link something I can always participate in the political process and try to do something about it. In the case of a business monopoly, we the public, don't have that choice. We can't vote Bill Gates out. How can people chose one technology over another when all that is available is Microsoft products? How can I choose to use the open-source ogg-vorbis audio protocol when Microsoft is giving away their media player which of course uses a proprietary protocol.

Please! Dont' let Microsoft make us all look like fools by allowing them to sneak in anti-competitive language in the settlement.

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